CITATIONS.

	PAGE
Ripley v. United States, 220 U. S. 491	2
United States v. Adams, 6 Wall. 101	2
United States v. Adams, 9 Wall. 661	2
United States v. Gleason, 124 U. S. 255	2
Winton v. Amos, 255 U. S. 372	2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1936.

THE UNITED STATES OF AMERICA, Petitioner, vs. ROBERT ESNAULT-PELTERIE, Respondent.	No. 41.

RESPONDENT'S MEMORANDUM ON PETITIONER'S MOTION.

IF YOUR HONORS PLEASE:

Counsel for respondent received at 11.30 A. M. on Monday, December 21, 1936, telegraphic information from the Solicitor General that he was presenting a motion to this Court to amend its decision of December 7, 1936, the gist of the motion being given. Counsel received a copy of the motion and petitioner's memorandum on Tuesday, Decem- 22, 1936, and this morning received a printed copy of the motion and memorandum.

Counsel for respondent beg leave to file the succeeding memorandum in typewritten form. It will be followed as soon as possible by printed copies.

Petitioner's motion evidently proceeds on the theory that this Court was inadvertently in error in writing its decision of December 7, 1936. This is not respondent's understanding.

This Court had before it and cited its decision in *United States* v. *Adams*, 6 Wall. 101; also in *United States* v. *Adams*, 9 Wall. 661, and *Ripley* v. *United States*, 220 U. S. 491. These are the only cases relied upon by the petitioner in its memorandum in support of its motion.

It appears from these cases that where this Court wishes to retain jurisdiction, it specifically so states. In the case at bar the Court specifically vacated the judgment—doubtless by clear intent and not inadvertently.

That this Court has vacated a judgment or reversed a decree while remanding a case to a lower court is apparently shown in—

Winton v. *Amos*, 255 U. S. 372;
United States v. *Gleason*, 124 U. S. 255.

We submit that petitioner's motion should be denied.

Respectfully submitted,

CADWALADER, WICKERSHAM & TAFT,
Solicitors for Respondent.

EUGENE V. MYERS,
EDWIN J. PRINDLE,
R. KEITH KANE,
of Counsel.

Dated: New York, N. Y., December 23, 1936.